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21 RICHARD KADREY, *et al.*,
22 Individual and Representative Plaintiffs,
23 v.
24 META PLATFORMS, INC., a Delaware
25 corporation;
26 Defendant.

Case No. 3:23-cv-03417-VC-TSH

ADMINISTRATIVE MOTION TO FILE UNDER
SEAL PORTIONS OF JOINT LETTER BRIEFS
AND SUPPORTING EVIDENCE (DKTS. 352 –
357)

Pursuant to Civil Local Rule 79-5, Defendant Meta Platforms, Inc. (“Meta”) moves this Court for an Order allowing Meta to file under seal confidential, unredacted versions of joint letter briefs regarding (1) Meta’s responses to Plaintiffs’ Requests for Admission (“RFA Joint Letter Brief”), (2) the crime-fraud exception (“Crime-Fraud Joint Letter Brief”), (3) Meta’s responses to Plaintiffs’ Requests for Production (“RFP Joint Letter Brief”), (4) privilege log issues relating to business advice (“Business Advice Joint Letter Brief”), (5) additional deposition time (“Deposition Joint Letter Brief”), and (6) Meta’s responses to Plaintiffs’ Interrogatories (“ROG Joint Letter Brief”) (collectively, the “Joint Letter Briefs”) and certain supporting evidence submitted with the Joint Letter Briefs. Meta respectfully submits that good cause exists for the filing of these materials under seal. The motion is based on the following Memorandum of Points and Authorities and the Declaration of Kyanna Sabanoglu in support of this Administrative Motion to File Under Seal.

The following chart lists the documents for which Meta requests sealing – in whole or in part – in order to protect Meta’s confidential business information.

Document	Sealing Request
RFA Joint Letter Brief (Dkt. 352)	• Redacted portions
Exhibit A to the RFA Joint Letter Brief (Dkt. 352-1)	• Redacted portions
Crime-Fraud Joint Letter Brief (Dkt. 355)	• Redacted portions
Exhibit A to Crime-Fraud Joint Letter Brief (Dkt. 355-1)	• Redacted portions
Exhibit B to Crime-Fraud Joint Letter Brief (Dkt. 355-2)	• Entire document
RFP Joint Letter Brief (Dkt. 356)	• Redacted portions
Exhibit B to RFP Joint Letter Brief (Dkt. 356-2)	• Entire document
Exhibit C to RFP Joint Letter Brief (Dkt. 356-3)	• Entire document
Business Advice Joint Letter Brief (Dkt. 353)	• Redacted portions
Exhibit A to Business Advice Joint Letter Brief (Dkt. 353-1)	• Redacted portions

Exhibit B to Business Advice Joint Letter Brief (Dkt. 353-2)	• Redacted portions
Deposition Joint Letter Brief (Dkt. 354)	• Redacted Portions
Exhibit A to Deposition Joint Letter Brief (Dkt. 354-1)	• Entire document
Exhibit B to Deposition Joint Letter Brief (Dkt. 354-2)	• Entire document
Exhibit C to Deposition Joint Letter Brief (Dkt. 354-3)	• Entire document
Exhibit E to Deposition Joint Letter Brief (Dkt. 354-5)	• Redacted Portions
ROG Joint Letter Brief (Dkt. 357)	• Redacted portions
Exhibit A to ROG Joint Letter Brief (Dkt. 357-1)	• Redacted portions
Exhibit D to ROG Joint Letter Brief (Dkt. 357-4)	• Redacted portions

A [Proposed] Order is filed concurrently herewith, and Meta refers the Court to the Joint Letter Briefs themselves and supporting evidence attached thereto as further support for this Administrative Motion.

I. LEGAL ARGUMENT

Though the presumption of public access to judicial proceedings and records is strong, it “is not absolute.” *Nixon v. Warner Commc’ns. Inc.*, 435 U.S. 589, 598 (1978). The Ninth Circuit treats documents “attached to dispositive motions differently from records [*i.e.*, documents] attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For non-dispositive motions, such as the Parties’ Joint Letter Briefs, the “good cause” standard applies. *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015); *Kamakana*, 447 F.3d at 1180 (“A ‘good cause’ showing will suffice to seal documents produced in discovery.”). The Federal Rules afford district courts “flexibility in balancing and protecting the interests of private parties.” *Kamakana*, 447 F.3d at 1180; *DSS Tech. Mgmt. v. Apple*, No. 14-cv-05330-HSG, 2020 WL 210318, at *8 (N.D. Cal. Jan. 14, 2020), *aff’d*, 845 F. App’x 963 (Fed. Cir. 2021) (finding good cause to seal “confidential business and proprietary information”).

1 Portions of the Joint Letter Briefs and corresponding supporting evidence contain Meta's
2 confidential information, for which Meta requests sealing.

3 The redacted portions of Exhibit A to the RFA Joint Letter Brief are responses to Plaintiffs'
4 Requests for Admission that Meta has designated "CONFIDENTIAL" under the Protective Order
5 and refer to highly sensitive, non-public information concerning Meta's business practices
6 surrounding its Llama models and the datasets used to train the Llama models. The redacted
7 portions of the RFA Joint Letter Brief refer to these responses.

8 The redacted portions of the Crime-Fraud Joint Letter Brief describe, refer to, and quote
9 from Meta witness testimony and documents produced by Meta in this case designated "HIGHLY
10 CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Stipulated Protective Order. These
11 documents and testimony refer to highly sensitive, non-public information concerning Meta's
12 internal methods and procedures relating to datasets used to train its Llama models and Meta's
13 development of its Llama models. The redacted portions of Exhibit A to the Crime-Fraud Joint
14 Letter Brief only cover highly sensitive information in Meta's privilege log, namely Meta employee
15 names email addresses, non-public filenames, and non-public email subject lines. Exhibit B to the
16 Crime-Fraud Joint Letter brief are excerpts of the deposition of Meta's CEO, Mark Zuckerberg,
17 which has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under
18 the Stipulated Protective Order and discusses Meta's internal policies relating to the acquisition of
19 data to train Meta's Llama models.

20 Exhibits B and C to the RFP Joint Letter Brief are excerpts of deposition testimony from
21 Meta employees, marked "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." These
22 excerpts discuss highly sensitive, confidential practices and processes surrounding training data for
23 Meta's Llama models, including how that data was obtained, and the development of the Llama
24 models. The redacted portions of the RFP Joint Letter Brief describe and quote from this testimony,
25 as well as documents produced by Meta and marked "HIGHLY CONFIDENTIAL –
26 ATTORNEYS' EYES ONLY" under the Stipulated Protective Order. These portions similarly
27 discuss Meta's confidential practices and processes surrounding its Llama models.
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1 The redacted portions of Exhibits A and B to the Business Advice Joint Letter brief only
 2 cover highly sensitive information in Meta’s privilege log, namely Meta employee names and email
 3 addresses, non-public filenames, and non-public email subject lines. The redacted portions of the
 4 Business Advice joint Letter Brief similarly only cover filenames or direct quotes from documents
 5 produced by Meta and designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

6 Exhibits A–C to the Deposition Joint Letter Brief are excerpts of deposition testimony from
 7 Meta employees, marked “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” These
 8 excerpts discuss highly sensitive, confidential practices and processes surrounding Meta’s Llama
 9 models and the datasets used to train them. The redacted portions of the Deposition Joint Letter
 10 Brief describe and quote from this testimony as well as documents produced by Meta and marked
 11 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” The redacted portions of Exhibit
 12 E to the Deposition Joint Letter Brief discuss Meta’s confidential agreements as well as practices
 13 and procedures concerning its Llama models and the datasets used to train them.

14 The redacted portions of Exhibit A to the ROG Joint Letter Brief are responses to Plaintiffs’
 15 Interrogatories that Meta has designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
 16 ATTORNEYS’ EYES ONLY” under the Protective Order. These responses include highly
 17 sensitive details concerning Meta’s business practices and business decisions relating to its Llama
 18 models, its internal development of its Llama models, and highly confidential details concerning
 19 Meta’s business partnerships and agreements. The redacted portions of the ROG Joint Letter Brief
 20 refer to or describe the confidential information contained in these Interrogatory responses. The
 21 redacted portions of Exhibit D to the ROG Joint Letter Brief discuss confidential information
 22 concerning the Meta’s use of certain datasets to train the Llama models.

23 Meta must request sealing of these materials, as this information is highly confidential, and
 24 Meta takes steps to carefully protect the confidentiality of information of this sort as disclosure has
 25 the potential to cause significant competitive injury to Meta. *See, e.g., Krieger v. Atheros*
 26 *Comm’ns, Inc.*, No. 11-CV-640-LHK, 2011 WL 2550831, at *1 (N.D. Cal. Jun. 25, 2011) (finding
 27 information regarding party’s “long-term financial projections, discussions of business strategy,
 28 and competitive analyses” sealable); *Space Data Corp. v. Alphabet Inc.*, No. 16-CV-03260-BLF,

1 2019 WL 285799, at *1 (N.D. Cal. Jan. 22, 2019) (finding information regarding party’s
2 confidential and proprietary technical information, and sensitive financial information sealable).
3 These sealing requests are critical to protect Meta’s confidential sensitive technical and competitive
4 information.

5 The specific basis for sealing these materials is outlined in the accompanying declaration
6 of Meta’s Associate General Counsel, Kyanna Sabanoglu. As outlined in Ms. Sabanoglu’s
7 declaration, public disclosure of the protected information contained in the materials Meta seeks to
8 seal would cause competitive harm to Meta. Meta’s proposed redactions and sealing requests are
9 narrowly tailored to include only that information which would cause specific, articulable harm, as
10 identified in Ms. Sabanoglu’s declaration. In each instance, the harm to Meta outweighs the
11 public’s interest in disclosure. *See, e.g., In re iPhone App. Litig.*, No. 11-md-02250-LHK, 2013
12 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013) (granting motion to seal where the defendant’s
13 interest in “maintaining the confidentiality of information about its technology and internal business
14 operations” outweighed that of the public in accessing such documents). To the extent the materials
15 Meta seeks to seal include non-confidential background information, sealing of such information
16 within the context of the Joint Letter Briefs is necessary to maintain the confidentiality of Meta’s
17 protected information, as the discussion necessarily implies conduct by Meta which is highly
18 sensitive, non-public, and which Meta has taken steps to keep confidential. Accordingly, this
19 sealing request is critical to protecting Meta’s confidential sensitive technical and competitive
20 information.

21 **II. CONCLUSION**

22 Pursuant to Civil Local Rule 79-5, as appropriate, redacted and unredacted versions of the
23 above-listed document accompany this Administrative Motion. For the foregoing reasons, Meta
24 respectfully requests that the Court grant the Administrative Motion to Seal.

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1 Dated: December 20, 2024

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